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4  
Attorney for Defendant  
5 JAMES MICHAEL BURGE

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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION

10  
11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 JAMES MICHAEL BURGE,

15 Defendant.  
16  
17

No. CR-3-08-70181 MAG


STIPULATION AND [PROPOSED] ORDER  
EXCLUDING TIME AND CONTINUING  
COURT APPEARANCE

18 On May 19, 2008, the parties in this case appeared before the Court for a  
19 preliminary hearing. The parties requested and the Court agreed to continue the  
20 preliminary hearing to June 18, 2008, so that the parties could explore pre-indictment  
21 resolution of this case. The parties further stipulated that pursuant to Rule 5.1(d) of  
22 the Federal Rules of Criminal Procedure ("FRCP"), the time limits set forth in FRCP  
23 5.1(c) be excluded from May 19, 2008, to and including June 18, 2008. The parties  
24 agree that — taking into account the public interest in prompt disposition of criminal  
25 cases — good cause exists for this extension. Defendant also agrees to the exclusion  
26 for this period of time any time limits applicable pursuant to 18 U.S.C. §3161. The  
27 continuance is the reasonable time necessary for continuity of defense counsel and  
28 for effective preparation of defense counsel, taking into account the exercise of due

1 diligence. See 18 U.S.C. §3161(h)(8)(B)(iv). The parties also agree that the ends of  
2 justice served by granting the continuance outweigh the best interests of the public and  
3 the defendant in a speedy trial under 18 U.S.C. §3161(h)(8)(A).

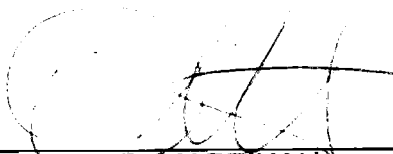
4 SO STIPULATED:

5 DATED: 5/28/08

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8 PETER GOODMAN  
Attorney for Defendant  
JAMES MICHAEL BURGE

9 SO STIPULATED:

10 DATED: 6/25/08

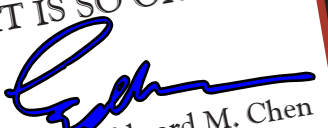
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13 OWEN P. MARTIKAN  
Assistant United States Attorney

14  
15 ~~[PROPOSED]~~ ORDER

16 For the reasons stated above, the Court finds that the exclusion of time from  
17 May 19, 2008, to and including June 18, 2008, is warranted and that the ends of justice  
18 served by the continuance outweigh the best interests of the public and the defendant in  
19 a speedy trial. See 18 U.S.C. §3161(h)(8)(A); FRCP 5,1(d). The failure to grant the  
20 requested continuance would deny defendant BURGE continuity of counsel and would  
21 deny defense counsel the reasonable time necessary for effective preparation, taking  
22 into account the exercise of due diligence, and would result in a miscarriage of justice  
23 under 18 U.S.C. §3161(h)(8)(B)(iv).

24 SO ORDERED.

25 DATED: June 30, 2008

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EDWARD M. CHEN  
UNITED STATES DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
IT IS SO ORDERED  
  
Judge Edward M. Chen